

REMARKS

Claims 1-26 are pending in the current application. Claims 1-7, 15, 16, 20-22, and 25 currently stand rejected, and claims 1, 15, and 20 are amended. The Examiner has indicated allowable subject matter in claims 8-14, 17-19, 23, 23, and 26, and the Applicants thank the Examiner for so noting. Applicants further submit that the rejected claims are also allowable in light of the preceding amendments and following remarks.

Rejections under 35 U.S.C. § 102

Claims 1-3, 15, 16, and 20 are rejected under 35 U.S.C. §102(e) as being anticipated by US Pat Pub 2002/0132611 to Immonen et al. ("Immonen"). Applicants respectfully traverse this rejection for the reasons detailed below.

The Examiner states that Immonen discloses the elements of independent claims 1, 15, and 20 including "adapting at least one target Quality of Service (QoS) characteristic in response to at least one network usage metric meeting a threshold for the at least one network usage metric." Applicants respectfully submit that Immonen teaches adapting QoS characteristics only in response to a single user request. See FIG. 1, elements 11 & 12; ¶ [0048]. Immonen's user request is in no way related to network usage metrics and is an entirely separate triggering effect for adapting QoS from that recited in the claims.

Further, if the Examiner is interpreting "in response to" as "based upon," Immonen does not adapt QoS characteristics based upon a comparison of network usage metrics and their thresholds. Rather, Immonen's QoS characteristics are always based upon the user equipment's requested QoS, a customer-specific stored QoS profile in a home location register, or a generic QoS profile stored in a serving gateway support node. See ¶¶ [0053]-[0058]; FIG. 2 (final box elements). That is, in Immonen, each QoS characteristic is merely selected from one of several

stored lists of QoS profiles. Immonen is silent regarding using or acting in response to, let alone ascertaining, network usage metrics by which to adapt a QoS.

The Examiner appears to believe that Immonen's teaching of adapting a QoS for real-time traffic anticipates the adaptation step of claims 1, 15, and 20. Applicants respectfully reiterate that while Immonen does teach a real-time option, this option is considered only in response to a user request, not in response to network usage metrics. *See* ¶ [0059], p. 6, l. 1. Regardless, the "real-time traffic" option still selects a pre-existing QoS characteristic profile, and does not adapt the QoS characteristics based on network usage metrics. *See* ¶ [0057]. Thus the "real time traffic" option in Immonen does not meet the claims' adaptation in response to "at least one network usage metric meeting a threshold for the at least one network usage metric."

Because Immonen does not teach or suggest all the features of claims 1, 15, and 20, Lu cannot anticipate or render obvious these claims. Dependent claims 2, 3, and 16, which depend from an allowable base claim 1 or 15, are allowable for at least the amendments and reasons discussed above with regard to claims 1, 15, and 20. Applicants respectfully request withdrawal of this rejection.

Rejections under 35 U.S.C. § 103(a)

Claims 4-7, 21, 22, and 25 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Immonen in view of US Pat Pub 2004/0143842 to Joshi ("Joshi"), US Pat Pub 2003/0060208 to Achour et al. ("Achour"), and/or US Pat Pub. 2004/0176060 to Mudigonda et al. ("Mudigonda"). Applicants respectfully traverse this ground of rejection.

Joshi, Achour, and Mudigonda do not make up for the suggestion and disclosure deficiencies discussed above with regard to Immonen. Particularly, none of these references teach adapting QoS requirements in response to a load condition. Therefore, Joshi, Achour, and

Mudigonda, alone or in combination with Immonen, do not disclose or fairly suggest the limitations of independent claims 1, 15, or 20. Claims 4-7, 21, and 25 are allowable at least by virtue of their dependency on independent claims 1, 15, or 20. Applicants respectfully request the Examiner withdraw this art grounds of rejection.

CONCLUSION

Accordingly, in view of the above amendments and remarks, reconsideration of the objections and rejections and allowance of each of claims 1-26 in connection with the present application is earnestly solicited.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact Gary D. Yacura at the telephone number of the undersigned below.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 08-0750 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17; particularly, extension of time fees.

Respectfully submitted,

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By



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